

REMARKS/ARGUMENTS

In the restriction requirement, the Examiner required the election of a single group for Groups set forth on page 2 of the outstanding Office Action.

The Examiner further required Applicants, under 35 U.S.C. §121, elect a single disclosed species, i.e., elect single and specific peptide sequence (e.g., SEQ ID NO:1-20, 40-41, etc. as a nucleotide or antibody thereof; and elect a single and specific illness to be treated/detected, for prosecution on the merits.

The claims of Groups I-VIII are integrally linked as compounds (composition) method of making and method of use.

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the Examiner if restriction is not required (M.P.E.P. §803). The burden of proof is on the Examiner to provide reasons and/or examples to support any conclusion in regard to patentable distinction.

There is a technical relationship that links all of the Groups and it is this technical relationship that defines the contribution which each of the Groups taken as a whole makes over the prior art.

Please note that all the sequences disclosed in the specification have been examined and found free of prior art by the Examination Division of the European Patent Office. This indicates that the Groups relate to a single general inventive concept and are directed to the same corresponding technical feature and are considered to have unity of invention.

Moreover, Applicants respectfully submit that a search of all the claims would not impose a serious burden on the Office. As the Office has not shown any evidence that a restriction should now be made when the European Patent Office did not, restriction is now believed to be improper.

Further the M.P.E.P. §803 states as follows:

If the search and examination of an entire application can be made without a serious burden, the Examiner must examine it on its merits, even though it includes claims to distinct or independent inventions.

For the reasons set forth above, Applicants request that the restriction requirement be withdrawn.

Divisional applications filed thereafter claiming the non-elected subject matter should not be subject to double-patenting ground of rejection 35 U.S.C. §121, In re Joyce, (Commr. Pats. 1957) 115 USPQ 412.

Applicants further request that should the elected species be found allowable, the Examiner expand the search to include the non-elected species.

Applicants submit that the above-identified application is now in condition for examination on the merits, and an early notice of such action is earnestly solicited.

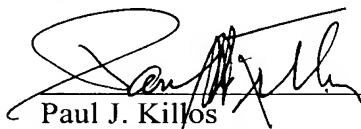
Respectfully submitted,

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